REMARKS / ARGUMENTS:

The specification and claims 104, 108 and 118 have been amended as suggested by the Office to correct the spelling of "glufosinate", "imidazolinone", and to clarify the meaning of "STS system"

Claims 103 – 106, 108 – 118, 120 – 122 and 134 – 158 are in the case.

No new matter has been added.

Rejection of claims 103 – 106, 108 – 118, 120 – 122 and 134 – 158 under 35 USC §112, first paragraph, as failing to comply with the enablement requirement.

It is respectfully requested that the rejection of claims 103 – 106, 108 – 118, 120 – 122 and 134 – 158 under 35 USC §112, first paragraph, as failing to comply with the enablement requirement be reconsidered for the reasons discussed below and be withdrawn.

The Office has rejected all claims in the case as lacking an enabling disclosure in the specification. The Office has argued that "the entire disclosure addresses the utility of carrying out the claimed method of applying silthiofam to CSR2121 soybean plants ...", and concludes that "it is not seen how the disclosure may be extrapolated to treatment with any fungicide other than silthiofam, nor to treatment of any plants other than soybean variety CSR2121."

With respect, the Applicant disagrees with the characterization that the specification is limited to carrying out the claimed method with one fungicide (silthiofam) and one plant (CSR2121 soybeans). This is simply not so. In fact, the specification addresses in detail each and every element of the claims. In claim 103, for example, the meaning of "increasing the vigor and/or the yield" is discussed at least at page 15, line 15 to page 16, line 2. The meaning of "agronomic plant" is discussed at least at page 15, lines 4 – 14, and page 16, lines 3 – 14. The meaning of "treating the plant or its propagation material" is described at least at page 46, line 12 to page 56, line 3, and further guidance is provided in the examples on pages 56 – 68. The meaning of "a fungicide which has no significant activity against fungal plant pathogens for such agronomic plant" is discussed in the specification at least at page 17, line 24 to page 46, line 12, and in the examples and selected claims. The meaning of "effective amount"

(of the fungicide) is defined at page 46, line 18 to page 47, line 11. The meaning of "no significant activity" is defined at page 14, line 29 to page 15, line 3. The identity of "fungal plant pathogens" for such agronomic plant is discussed at page 14, lines 25 – 28. The meaning of "transgenic event providing the plant with resistance to a herbicide" is discussed at least at page 16, line 15 to page 17, line 5. Finally, it is believed that the meaning of terms such as "foliar application" are well known to any practitioner having ordinary skill in the art pertinent to the present invention.

Moreover, the present invention, as claimed, does not require that one reading the claims carry out undue experimentation in order to practice the invention. Whether experimentation is undue does not pertain to how much, but to what degree of innovation is required. Here, none is required. Once an agronomic plant is selected, one must merely look up what fungal pests are pathogenic for the plant, and which fungicides have, and do not have, activity against the fungal pests of the plant. All of this information is readily available from the literature. For example, plant fungal pests are widely known and easily determined, as is the activity of a fungicide against such fungal pest. In fact, the activity is commonly listed in texts such as The Pesticide Manual, on fungicide labels, and in the technical literature dealing with fungal pests and their management.

Guidance as to the enablement requirements of 35 USC §112, first paragraph, is provided in MPEP 2164.04, where it is stated that

> [w]hile an enablement rejection may be appropriate for a specification that fails to teach one of ordinary skill how to practice an invention, it cannot be used merely to reduce the scope of claims that are enabled by the specification. A specification that contains a teaching of the manner and process of making and using an invention must be taken as being in compliance with the enablement requirement unless there is a reason for the Office to doubt the objective truth of the statements contained therein. And if a reason for such doubt exists, then the Office must explain *why* it doubts the truth or accuracy of such statement.

With respect, it is believed that the present Action provides no discussion of a reason to doubt the statements of the specification, or an explanation of why such doubt exists. Therefore, lacking such an explanation, it is believed that the present Action fails to provide a valid ground of rejection under 35 USC §112, first paragraph. Accordingly,

it is maintained that each and every term in the claims is fully supported and enabled in the specification in a manner that meets the requirements of 35 USC §112, first paragraph, and it is respectfully requested that the present rejection be reconsidered and withdrawn.

Rejection of claims 103, 108 and 118 under 35 USC 112, second paragraph, and correction of the specification to conform to the claims.

The specification and claims 104 (rather than 103), 108 and 118, have been amended as suggested in the Action to correct the spelling of "glufosinate", "imidazolinone", and to clarify the identity of STS system herbicides.

Withdrawal of the rejection under 35 USC §103.

The withdrawal of the rejection under 35 USC §103 is respectfully acknowledged.

Request for reconsideration:

It is respectfully requested that the claims be reconsidered after consideration of the reasons for allowability that are discussed above and be found to be allowable. If one or more of the claims are found to not be allowable, a telephone call to the undersigned would be appreciated in order to resolve any remaining issues.

Respectfully submitted,
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Dated: November 22, 2005

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